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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-043

13 **CARLOS GUITGUITEN BAGUE**  
1944 North Perry Avenue  
Clovis, California 93619

**ACCUSATION**

14 **Registered Nurse License No. 728667**

15 Respondent.

16  
17 Louise R. Bailey, M.Ed., R.N. ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Accusation solely in her official capacity as the Executive  
20 Officer of the Board of Registered Nursing ("Board"), Department of Consumer Affairs.

21 **Registered Nurse License**

22 2. On or about June 23, 2008, the Board issued Registered Nurse License  
23 Number 728667 to Carlos Guitguiten Bague ("Respondent"). The Registered Nurse License was  
24 in full force and effect at all times relevant to the charges brought herein and will expire on  
25 January 31, 2014, unless renewed.

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1 **JURISDICTION**

2 3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that  
3 the Board may discipline any licensee, including a licensee holding a temporary or an inactive  
4 license, for any reason provided in Article 3 (commencing with Code section 2750) of the  
5 Nursing Practice Act.

6 4. Code section 118, subdivision (b), provides, in pertinent part, that the expiration of a  
7 license shall not deprive the Board of jurisdiction to proceed with a disciplinary action during the  
8 period within which the license may be renewed, restored, reissued, or reinstated.

9 5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not  
10 deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or  
11 to render a decision imposing discipline on the license.

12 **STATUTORY PROVISIONS**

13 6. Code section 2761 states, in pertinent part:

14 The board may take disciplinary action against a certified or licensed nurse or  
15 deny an application for a certificate or license for any of the following:

16 (a) Unprofessional conduct, which includes, but is not limited to, the  
17 following:

18 (4) Denial of licensure, revocation, suspension, restriction, or any other  
19 disciplinary action against a health care professional license or certificate by another  
20 state or territory of the United States, by any other government agency, or by another  
21 California health care professional licensing board. A certified copy of the decision  
22 or judgment shall be conclusive evidence of that action.

23 **COST RECOVERY**

24 7. Code section 125.3 provides, in pertinent part, that the Board may request the  
25 administrative law judge to direct a licensee found to have committed a violation or violations of  
26 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
27 enforcement of the case.  
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1 **CAUSE FOR DISCIPLINE**

2 **(Out-of-State Discipline)**

3 8. Respondent is subject to discipline pursuant to Code section 2761, subdivision (a)(4),  
4 on the grounds of unprofessional conduct, in that effective March 26, 2012, in a disciplinary  
5 action entitled *In the Matter of the Registered Nurse License No. RN145866 Issued to: Carlos*  
6 *Guitguiten Bague, Respondent*, pursuant to *Findings of Fact, Conclusions of Law and Order*  
7 *No. 1006128* (attached hereto as **Exhibit A** and incorporated herein by reference), the Arizona  
8 State Board of Nursing revoked Respondent's registered nurse license in the State of Arizona.  
9 The basis of such action is that on or about May 15, 2007, while employed by TRAVMED as a  
10 licensed registered nurse assigned to work at St. Joseph's Hospital ("SJH") in Tucson, Arizona,  
11 Respondent placed patient D.A.'s bedside guard rails in the "up" position without a medical  
12 provider's order, conduct that was or might have been harmful or dangerous to DA's health.  
13 Respondent's conduct was a breach of SJH policy and procedures, and a violation of the standard  
14 of care.

15 **PRAYER**

16 **WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged,  
17 and that following the hearing, the Board of Registered Nursing issue a decision:

- 18 1. Revoking or suspending Registered Nurse License Number 728667, issued to Carlos  
19 Guitguiten Bague;  
20 2. Ordering Carlos Guitguiten Bague to pay the Board of Registered Nursing the  
21 reasonable costs of the investigation and enforcement of this case, pursuant to Code section  
22 125.3; and,  
23 3. Taking such other and further action as deemed necessary and proper.

24  
25 DATED: February 20, 2013

26 *for* Stacie Bern  
27 LOUISE R. BAILEY, M.ED., R.N.  
28 Executive Officer  
Board of Registered Nursing  
State of California  
Complainant

**EXHIBIT A**

*Findings of Fact, Conclusions of Law and Order No. 1006128  
In the Matter of the Registered Nurse License No. RN145866 Issued to: Carlos Guitguiten Bague  
Arizona State Board of Nursing*

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**ARIZONA STATE BOARD OF NURSING**  
**4747 North 7<sup>th</sup> Street, Ste 200**  
**Phoenix, Arizona 85014-3655**  
**602-771-7800**

IN THE MATTER OF THE REGISTERED  
NURSE LICENSE NO. RN145866  
ISSUED TO:

**CARLOS GUITGUITEN BAGUE,**

RESPONDENT.

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW  
AND ORDER NO. 1006128**

On January 24, 2012, the Arizona State Board of Nursing ("Board") considered the State's Motion to Deem Allegations Admitted and Recommended Discipline and Respondent's Response to the Motion, if any, at the Arizona Board of Nursing, 4747 North 7<sup>th</sup> Street, Suite 200, Phoenix Arizona 85014-3655. Kim E. Zack, Assistant Attorney General, appeared on behalf of the State. Respondent was not present and was not represented by counsel.

On January 24, 2012, the Board granted the State's Motion to Deem Allegations Admitted. Based upon A.R.S. § 32-1663(F) and Notice of Charges No. 1006128 issued in this matter, the Board adopts the following Findings of Fact, Conclusions of Law, and **REVOKES** Respondent's registered nurse license.

**FINDINGS OF FACT**

1. Carlos Guitguiten Bague, ("Respondent") holds Board issued registered nurse license no. RN145866 and that license expired on April 2, 2011.

2. The Board has authority pursuant to A.R.S. §§ 32-1606, 32-1663, and 32-1664 to impose disciplinary sanctions against the holders of nursing licenses for violations of the Nurse Practice Act, A.R.S. §§ 32-1601 to -1669.

3. On or about June 7, 2010, the Board received a complaint from the Arizona Medical

1 Board alleging that, on or about May 15, 2007, while employed by TRAVMED and assigned to St.  
2 Joseph's Hospital [SJH] in Tucson, Arizona, Respondent placed three bedside guard rails [bedside  
3 rails] in the "up" position for patient D.A., without a medical provider's order. Respondent's action  
4 was considered a breach of SJH's restraint policy and procedure. It is a standard of care for a  
5 Registered Nurse to follow policies and procedures of their employers and healthcare facility. SJH's  
6 restraint policy required a nurse to:

- 7 a. Prior to utilizing a patient restraint (that includes the use of bedside rails), a  
8 Registered Nurse conducts an initial patient safety (risk/fall) assessment which  
9 includes but is not limited to: evaluation of the patient's neurological status;  
10 reviews the patient's prescribed medication(s) list; determines if the patient has  
11 critical medical devices, such as a chest tube or other drainage tubes or  
12 intravenous catheter(s), that if dislodged or disconnected, would imperil the  
13 patient's health and well-being;
- 14 b. At the conclusion of the nurse's initial safety (fall/risk) evaluation, the nurse  
15 must utilize the least restrictive intervention(s) to assure patient safety, such as  
16 distraction techniques, or use of a bedside sitter. At regularly scheduled  
17 intervals, the nurse must re-assess the patient's response to the effectiveness of  
18 the intervention(s) and document the findings in the patient's record;
- 19 c. If after implementing the least restrictive intervention(s), the nurse concludes  
20 that the patient's safety remains at risk, the nurse must notify the patient's  
21 medical provider and obtain an order to implement the restraint protocol; and
- 22 d. A Registered Nurse must recognize that bedside rails are a form of  
23 imprisonment and utilized with discretion and only in accordance with SJH's  
24 policy and procedure.

25 Based upon this information, the Board initiated an investigation.

26 4. On or about August 19, 2009, Board staff mailed a complaint and notification letter and  
27 an investigative questionnaire to Respondent's address of record. Respondent failed to respond.

28 5. On or about October 5, 2010, a second complaint and notification letter and an  
29 investigative questionnaire were mailed to Respondent's address of record. Respondent failed to  
respond.

6. On or about April 15, 2011, a third complaint and notification letter and investigative  
questionnaire were mailed to Respondent's address of record. Respondent failed to respond.

## CONCLUSIONS OF LAW

1. The conduct and circumstances alleged in the Factual Allegations constitute violations of A.R.S. § 32-1663(D) as defined in A.R.S. § 32-1601(16) (d) (Any conduct that is or might be harmful or dangerous to the health of a patient or the public); and (j) (Violating a rule that is adopted by the Board pursuant to this chapter) (effective August 2004), specifically:

- A.A.C. R4-19-403(B) (For purposes of A.R.S. §32-1601(16)(d), any conduct or practice that is or might be harmful or dangerous to the health of a patient or the public includes one or more of the following:(9) (Failing to take appropriate action to safeguard a patient's welfare or follow policies and procedures of the nurse's employer designed to safeguard the patient); (25a) (Failing to: Furnish in writing a full and complete explanation of a matter reported pursuant to A.R.S. § 32-1664), and (31) (Practicing in any other manner that gives the Board reasonable cause to believe the health of a patient or the public may be harmed) (effective November 13, 2005).

2. The conduct and circumstances alleged in the Factual Allegations constitute violations of A.R.S. § 32-1663(D) as defined in A.R.S. 32-1601(18) (d) (Any conduct that is or might be harmful or dangerous to the health of a patient or the public); and (j) (Violating this chapter or a rule that is adopted by the board pursuant to this chapter) (effective September 30, 2009), specifically: (25a) (Failing to: Furnish in writing a full and complete explanation of a mater reported pursuant to § A.R.S. 32-1664) (effective January 31, 2009).

2. The conduct and circumstances described in the Findings of Fact constitute sufficient cause pursuant to A.R.S. § 32-1664 (N) to **suspend or revoke registered nurse license number RN145866 of Carlos Guitguiten Bague to practice as a registered nurse in the State of Arizona.**

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Order:

### RIGHT TO PETITION FOR REHEARING OR REVIEW

**For answers to questions regarding a rehearing, contact Llysia Gauntt at (602) 771-7852.**

**This decision is effective upon expiration of the time for filing a request for rehearing or, or upon denial of such request, whichever is later, as mandated in A.A.C. R4-19-609.**

DATED this 24<sup>th</sup> day of January, 2012.

SEAL

-4-



1 COPIES mailed this 17<sup>th</sup> day of February, 2012, by Certified Mail No. 7009 0080 0000 0430 8207 and  
2 First Class Mail to:

3 Carlos Guitguiten Bague  
4 9225 East Tanque Verde Rd  
5 Tucson, AZ 85749

6 COPIES mailed this 17<sup>th</sup> day of February, 2012, by First Class Mail to:

7  
8 Kim E. Zack  
9 Assistant Attorney General  
10 1275 W Washington  
11 Phoenix AZ 85007

12 By: Llysia Gauntt  
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